



CITY OF NEWTON, MASSACHUSETTS

Department of Planning and Development

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David B. Cohen
Mayor

Public Hearing Date:	September 22, 2008
Zoning and Planning Action Date:	to be determined
Board of Aldermen Action Date:	to be determined
90-Day Expiration Date:	to be determined

DATE: September 19, 2008

TO: Ald. Brian E. Yates, Chairman, and
Members of the Zoning and Planning Committee
Planning and Development Board

FROM: Michael Kruse, Director of Planning and Development
Jennifer Molinsky, Principal Planner/Zoning and Planning Coordinator *JM*

SUBJECT: Petition #110-07(2), ALD. HESS-MAHAN proposing that the Sec30-15(t), **Dormers**, as established by Ordinance Z-20, dated April 7, 2008, be amended by repealing the provision prohibiting dormers in accessory structures except by special permit.

CC: Board of Aldermen
Mayor David B. Cohen
John Lojek, Commissioner of Inspectional Services
Marie Lawlor, Assistant City Solicitor

RECOMMENDATION: SEE "RECOMMENDATION" SECTION WITHIN.

The purpose of this memorandum is to provide the Board of Aldermen, Planning and Development Board, and the public with technical information and planning analysis which may be useful in the decision making process of the Boards. The Planning Department's intention is to provide a balanced view of the issues with the information it has at the time of the public hearing. There may be other information presented at or after the public hearing that the Zoning and Planning Committee of the Board of Aldermen will consider in its discussion at a subsequent Working Session.

I. BACKGROUND

Petition #110-07(2) seeks to amend Section 30-15(t), the density/dimensional requirements for dormers, by repealing the provision that prohibits dormers in accessory structures except by special permit.

The language prohibiting dormers in accessory structures except by special permit was adopted on April 7, 2008 as part of Ordinance Z-20, which implemented new zoning regarding dormers above the second floor in single- and two-family dwellings. Ordinance Z-20 added a new subsection to Section 30-15(t), density/dimensional requirements, which began:

30-15(t) Dormers. Except as may be allowed by special permit in accordance with Section 30-24, the following restrictions shall apply to dormers above the second story in single- and two-family dwellings.
Dormers are not allowed in accessory structures except by special permit.

Ordinance Z-20 was the outcome of the Board of Aldermen's consideration of the Zoning Task Force's report from the Half Story/Dormer Subcommittee, although that report did not mention dormers in accessory structures.

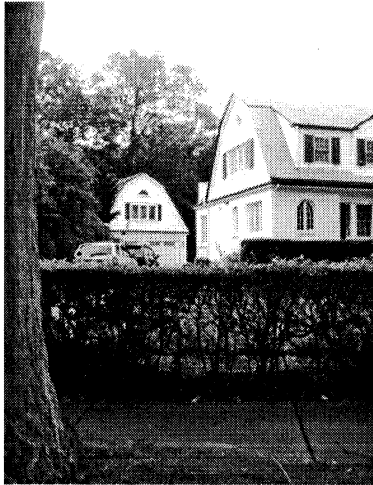
Since Ordinance Z-20 has been in effect, a number of potential applicants for building permits have been advised that a special permit would be needed for dormers in accessory structures. No one has sought special permits, but several have objected to the current prohibition. In some cases, builders may be pursuing less aesthetically desirable as-of-right plans.

Since some have suggested the provision of Ordinance Z-20 concerning dormers in accessory structures was not discussed in sufficient detail, the current petition seeks to bring it back to the Zoning and Planning Committee for further consideration and discussion.

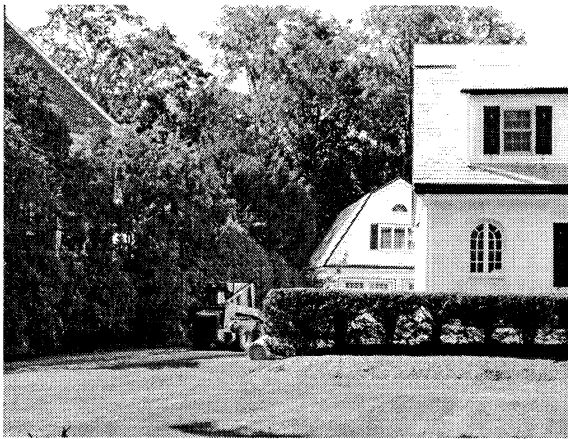
II. ANALYSIS

Two primary concerns are associated with dormers in accessory structures have been raised during the discussion of this subject:

1. **Privacy.** Since accessory structures are allowed as close as five feet from a property line (and historically, have been built closer to the property line), it is possible that dormers in an accessory structure may overlook a neighbor's property at a closer range than dormers in a primary structure.
2. **Overbuilding of accessory structures.** The current Zoning Ordinance (through Section 30-15(m)), limits accessory buildings to one and a half stories with a maximum ground floor of 700 sq.ft. Dormer windows may facilitate the use of that space for additional living area, such as an office or exercise room, and it is possible that this increases the chance that the space may eventually be used as an accessory apartment without the homeowner gaining necessary permits or approvals pursuant to 30-8(d) and 30-9(h).

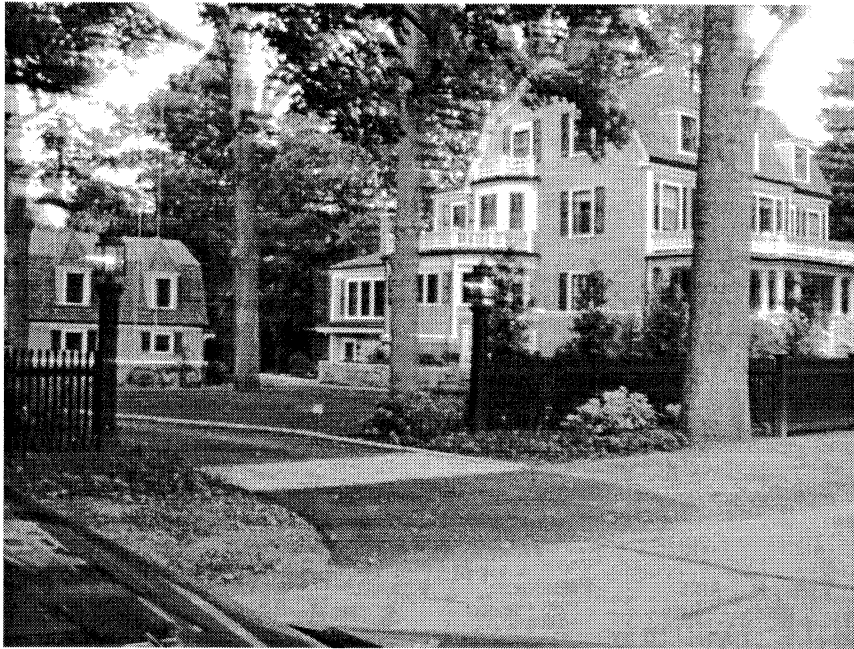


3 Montvale Road. Original design raised concerns about privacy and massing. As built, there is no dormer facing neighbor's property to left.

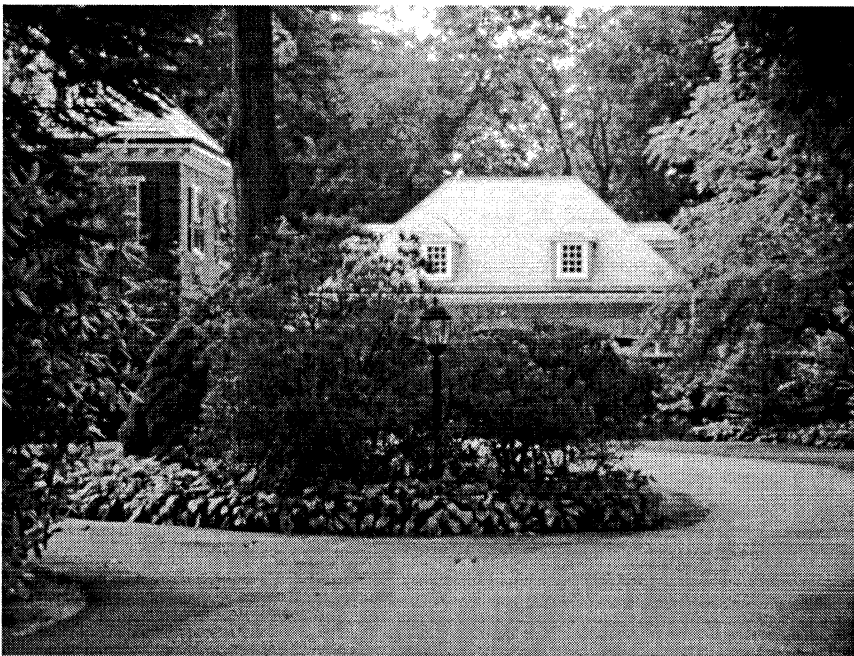


The prohibition against dormers in accessory structures without a special permit raises other issues:

- 1. Dormers are often in keeping with historic character.** In many Newton neighborhoods, carriage houses and garages have historically featured dormers. Prohibiting dormers without special permits may discourage those wishing to build in keeping with historic character. Two examples from West Newton hill show dormers in accessory structures that add to the character of both residences:



21 Berkeley Street



19 Dartmouth Street

2. **Alternative designs less desirable.** To circumvent the prohibition against dormers, it is possible that builders may design and construct alternatives to bring light into the half story above accessory structures that are permitted as of right, but that are less desirable aesthetically and less historically consistent with the style of the structure or character of the neighborhood.

III. RECOMMENDATION

The prohibition may be an overly vigilant response to the concerns about dormers in accessory structures, and appears to be discouraging some desirable contextual design.

However, if Section 30-15(t) is amended to repeal the provision prohibiting dormers in accessory structures except by special permit, dormer dimensions in accessory structures would not be regulated: as currently written, Section 30-15(t) regulates dormers only above the second story in single and two family dwellings.

The Department of Planning and Development recommends adoption of an amendment to repeal the provision prohibiting dormers in accessory structures except by special permit, but only with the addition of language that would establish dimensional controls for any dormers in accessory structures.